

Senate Study Bill 3120

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CO=CHAIRPERSON KREIMAN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act creating a tool and die lien Act.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
3 TLSB 5512XK 81
4 rh/je/5

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1 1 Section 1. NEW SECTION. 572A.1 SHORT TITLE.
1 2 This chapter shall be known and may be cited as the "Tool
1 3 and Die Lien Act".
1 4 Sec. 2. NEW SECTION. 572A.2 DEFINITIONS.
1 5 For the purposes of this chapter, the following definitions
1 6 shall have the following meanings:
1 7 1. "Customer" means any person or entity who contracted
1 8 with or caused a plastic or metal processor to use a tool,
1 9 die, mold, jig, fixture, form, or pattern to manufacture,
1 10 assemble, or otherwise make plastic or metal components or
1 11 products.
1 12 2. "Processor" means any person or entity including, but
1 13 not limited to, a tool or die maker, who uses a tool, die,
1 14 mold, jig, fixture, form, or pattern to manufacture, assemble,
1 15 or otherwise make a plastic or metal product or products for a
1 16 customer, pursuant to a contract or otherwise.
1 17 3. "Special tool" means a tool, die, mold, jig, fixture,
1 18 form, pattern, or part used to manufacture, assemble, or
1 19 otherwise make plastic or metal components or products.
1 20 4. "Toolmaker" means a person including, but not limited
1 21 to, a mold builder, model maker, patternmaker, molder, die
1 22 maker, metal former, jig and fixture builder, die sinker, die
1 23 caster, mold designer, mold programmer, die designer, die
1 24 programmer, and mold or die engineer who fabricates, cuts,
1 25 casts, forms, or designs molds for the plastic industry or
1 26 dies for the metal forming industry.
1 27 Sec. 3. NEW SECTION. 572A.3 LIEN.
1 28 1. A processor shall have a lien on the tools, dies,
1 29 molds, jigs, fixtures, forms, or patterns in the processor's
1 30 possession belonging to a customer, for the balance due the
1 31 processor or person from such customer for plastic or metal
1 32 processing work, and for all materials related to such work.
1 33 The processor may retain possession of the tool, die, mold,
1 34 jig, fixture, form, or pattern until such balance is paid,
1 35 subject only to a security interest properly perfected
2 1 pursuant to article 9 of the uniform commercial code as
2 2 provided in chapter 554.
2 3 2. A toolmaker has a lien on all special tools produced by
2 4 the toolmaker and on all proceeds from the assignment, sale,
2 5 transfer, exchange, or other disposition of the special tool
2 6 produced by the toolmaker until the toolmaker is paid in full
2 7 all amounts due the toolmaker for the production of the
2 8 special tool.
2 9 3. For the purposes of subsection 2, all of the following
2 10 shall apply:
2 11 a. The lien attaches when the special tool is delivered
2 12 from the toolmaker to the customer.
2 13 b. The amount of the lien is the amount that a customer or
2 14 processor owes the toolmaker for the fabrication, repair, or
2 15 modification of the special tool.
2 16 c. The toolmaker retains the lien even if the toolmaker is
2 17 not in possession of the special tool for which the lien is

2 18 claimed.

2 19 Sec. 4. NEW SECTION. 572A.4 NOTICE.

2 20 1. Before enforcing a lien as provided for in section

2 21 572A.3, subsection 1, an initial notice in writing shall be

2 22 given to the customer, either delivered personally or sent by

2 23 registered mail to the last known address of the customer.

2 24 The notice shall state that a lien is claimed in the amount

2 25 set forth in or in an attachment to the notice for processing

2 26 work contracted or performed for the customer. The notice

2 27 shall also include a demand for payment.

2 28 2. Before enforcing a lien as provided in section 572A.3,

2 29 subsection 2, an initial notice in writing shall be given to

2 30 the customer and processor, either delivered personally or

2 31 sent by registered mail to the last known address of the

2 32 customer and the processor. The notice shall state that a

2 33 lien is claimed in the amount set forth in or in an attachment

2 34 to the notice for the fabrication, repair, or modification of

2 35 the special tool. The notice shall also include a demand for

3 1 payment.

3 2 Sec. 5. NEW SECTION. 572A.5 SALE OF SPECIAL TOOL ==

3 3 PROCESSOR.

3 4 If a processor has not been paid the amount due within

3 5 ninety days after the initial written notice has been received

3 6 by the customer as provided in section 572A.4, subsection 1,

3 7 the processor may sell the special tool at a public auction if

3 8 both of the following occur:

3 9 1. The special tool is still in the processor's

3 10 possession.

3 11 2. The processor complies with section 572A.7.

3 12 Sec. 6. NEW SECTION. 572A.6 POSSESSION OF SPECIAL TOOL

3 13 == TOOLMAKER.

3 14 1. If a toolmaker has not been paid the amount due within

3 15 ninety days after the initial notice is received by the

3 16 customer and by the processor, the toolmaker has a right to

3 17 possession of the special tool and may do any of the

3 18 following:

3 19 a. Enforce the right to possession of the special tool by

3 20 judgment, foreclosure, or any available judicial procedure.

3 21 b. Commence a civil action in district court to enforce

3 22 the lien, including by obtaining a judgment for the amount

3 23 owed and a judgment permitting the special tool to be sold at

3 24 an execution sale.

3 25 c. Take possession of the special tool, if possession

3 26 without judicial process can be taken without breach of the

3 27 peace.

3 28 d. Sell the special tool in a public auction if the

3 29 toolmaker complies with section 572A.8.

3 30 2. A toolmaker that suffers damages under this chapter may

3 31 obtain appropriate legal and equitable relief, including

3 32 damages, in a civil action. The court shall award a toolmaker

3 33 that is the prevailing party reasonable attorney fees, court

3 34 costs, and expenses related to enforcement of the lien.

3 35 Sec. 7. NEW SECTION. 572A.7 SECOND NOTICE == PUBLICATION

4 1 == SALE BY PROCESSOR.

4 2 1. Before a processor sells the special tool, the

4 3 processor shall provide a second written notice to the

4 4 customer, by registered mail, return receipt requested. The

4 5 second notice shall include all of the following information:

4 6 a. The processor's intention to sell the special tool.

4 7 b. A description of the special tool to be sold.

4 8 c. The time and place of the sale.

4 9 d. An itemized statement for the amount due.

4 10 2. In addition to the notice by mail provided pursuant to

4 11 subsection 1, the processor shall publish in a newspaper of

4 12 general circulation in the location where the special tool is

4 13 being held for sale by the processor, notice of the

4 14 processor's intention to sell the special tool. The notice

4 15 shall include a description of the special tool and name of

4 16 the customer.

4 17 Sec. 8. NEW SECTION. 572A.8 SECOND NOTICE == PUBLICATION

4 18 == SALE BY TOOLMAKER.

4 19 1. Before a toolmaker may sell the special tool, the

4 20 toolmaker shall provide a second written notice to the

4 21 customer and processor, by registered mail, return receipt

4 22 requested. The second notice shall include all of the

4 23 following information:

4 24 a. The toolmaker's intention to sell the special tool.

4 25 b. A description of the special tool to be sold.

4 26 c. The time and place of the sale.

4 27 d. An itemized statement for the amount due.

4 28 2. In addition to the notice by mail provided pursuant to

4 29 subsection 1, the toolmaker shall publish in a newspaper of
4 30 general circulation in the location where the special tool is
4 31 being held for sale by the toolmaker, notice of the
4 32 toolmaker's intention to sell the special tool. The notice
4 33 shall include a description of the special tool and name of
4 34 the customer and processor.

4 35 Sec. 9. NEW SECTION. 572A.9 INSPECTION == SALE FOR
5 1 AMOUNT EXCEEDING LIEN == FEDERAL PREEMPTION.

5 2 1. Prior to the sale of any special tool in accordance
5 3 with this chapter, such item must be available for inspection,
5 4 upon request, by members of the public during normal business
5 5 hours for a period of at least two weeks prior to the sale.

5 6 2. If the sale is for a sum greater than the amount of the
5 7 lien, the excess shall be paid to any prior lienholder and any
5 8 remainder to the customer and the processor.

5 9 3. A sale shall not be made or a possession shall not be
5 10 obtained under this chapter if it would be in violation of any
5 11 right of a customer or a processor under federal patent,
5 12 bankruptcy, or copyright law.

5 13 EXPLANATION

5 14 This bill creates the tool and die lien Act.

5 15 The bill creates a lien for a plastic or metal processor on
5 16 the tools, dies, molds, jigs, fixtures, forms, or patterns in
5 17 the plastic or metal processor's possession belonging to a
5 18 customer for the balance due from such customer for plastic or
5 19 metal processing work and for all materials related to such
5 20 work. The bill also creates a lien for a toolmaker on all
5 21 special tools produced by the toolmaker and on all proceeds
5 22 from the sale of the special tools. The bill provides that a
5 23 toolmaker must deliver the special tool to the customer to
5 24 create the lien.

5 25 The bill provides that prior to enforcing a lien under the
5 26 bill, the processor shall give an initial notice to the
5 27 customer. Such notice shall be delivered either personally or
5 28 by registered mail and shall state the amount owed and include
5 29 a demand for payment. The bill provides that if the processor
5 30 has not been paid within 90 days after receipt of the initial
5 31 notice, the processor may sell the special tool at a public
5 32 auction if the processor is in possession of the tool, has
5 33 sent a second notice to the customer informing the customer of
5 34 the sale, has published notice of the sale in a newspaper, and
5 35 has made the special tool available for public inspection.

6 1 The bill provides that prior to enforcing a lien under the
6 2 bill, a toolmaker shall give an initial notice to the
6 3 customer. Such notice shall be delivered either personally or
6 4 by registered mail and shall state the amount owed and include
6 5 a demand for payment. The bill provides that if a toolmaker
6 6 has not been paid within 90 days after receipt of the initial
6 7 notice, the toolmaker may enforce the right to possession of
6 8 the special tool through court action, take possession of the
6 9 special tool, or sell the special tool at a public auction if
6 10 the processor is in possession of the tool, has sent a second
6 11 notice to the customer informing the customer of the sale, has
6 12 published notice of the sale in a newspaper, and has made the
6 13 special tool available for public inspection. The bill also
6 14 provides that a toolmaker who suffers damages under the bill
6 15 may obtain appropriate legal and equitable relief, including
6 16 damages and reasonable attorney fees and court costs.

6 17 A "processor" is defined as a person or entity including,
6 18 but not limited to, a tool or die maker, who uses a tool, die,
6 19 mold, jig, fixture, form, or pattern to manufacture, assemble,
6 20 or otherwise make a plastic or metal product or products for a
6 21 customer, pursuant to a contract or otherwise. A "toolmaker"
6 22 is defined as a person including, but not limited to, a mold
6 23 builder, model maker, patternmaker, molder, die maker, metal
6 24 former, jig and fixture builder, die sinker, die caster, mold
6 25 designer, mold programmer, die designer, die programmer, and
6 26 mold or die engineer who fabricates, cuts, casts, forms, or
6 27 designs molds for the plastic industry or dies for the metal
6 28 forming industry. A "special tool" is defined as a tool, die,
6 29 mold, jig, fixture, form, pattern, or part used to
6 30 manufacture, assemble, or otherwise make plastic or metal
6 31 components or products.

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